

### **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed 06/10/2005. Consideration and allowance of the application and presently pending claims as amended, is respectfully requested.

#### **1. Present Status of Patent Application**

Upon entry of the amendments in this response, the following amended and new claims will be pending:

**Original claims: 12, 16, 18 and 20**

**Amended claims: 2 – 11, 15 and 19**

**New claims: none**

Claims 1, 13, 14 and 17 have previously been cancelled. Claims 2 – 11, 15 16, 18, 19 and 20 are pending in the present application. Amendments to the claims herein are specifically described hereinafter. It is believed that the foregoing amendments add no new matter to the present application and place the claims in condition for allowance.

#### **2. Response to Rejection of Claims 2, 4, 5, 7, 8 and 11 under 35 U.S.C. §102**

Claims 2, 4, 5, 7, 8 and 11 stand rejected under 35 U.S.C. §102 (b) as being anticipated by DESPARD (USP 2455889). Applicants respectfully disagree with the assertion of the office herein, and submit that claims 2, 4, 5, 7, 8 and 11 as currently pending are not anticipated by DESPARD.

**RE: CLAIM 2 and CLAIM 4** – Claims 2 and 4 are independent claims from which one or more of the other claims 5, 7, 8 and 11 depends. In the interests of advancing the present case, claim 2 and claim 4 have been amended herein, to further clarify features of embodiments of the invention.

More particularly, claim 2 has been amended to specify and require, among other things *a first slotted mounting hole for receiving a first mounting screw comprising a first support rim; a second slotted mounting hole for receiving a second mounting screw comprising a second support rim; a first channel having a width that is less than the maximum width of the first support rim; or a second channel having a width that is less than the maximum width of the second support rim.*

Similarly, claim 4 has been amended to specify and require, among other things, *a first mounting hole for receiving a first mounting screw that includes a first support rim; a second mounting hole for receiving a second mounting screw comprising a second support rim; a first ear that extends from a first end of said yoke; a second ear that extends from a second end of said yoke; a first channel extending from an outer edge of said yoke and leading into said first mounting hole and through which said first mounting screw may be passed into said first mounting hole; a second channel extending from an outer edge of said yoke and leading into said second mounting hole and through which said second mounting screw may be passed into said second mounting hole; a width of said first channel is less than the maximum width of said first support rim; a width of said second channel is less than the maximum width of said second support rim; and the yoke is configured so that the surface of the yoke surrounding the perimeter of said first mounting hole lies in substantially the same plane.*

Applicants submit that the prior art does not disclose, contemplate or otherwise suggest a device having all of the limitations specified by amended claim 2 or amended claim 4. In order for a claim to be anticipated by the prior art, each and every limitation specified by the claim at issue must be found in the prior art. Applicants submit that the cited art fails to disclose each and every limitation specified by these claims as originally submitted, and as amended herein. In the case of dependent claims 3, 5, 6, 9, 10, 11 and 12 each and every limitation specified and required by independent claim 2 must be considered. Further, In the case of dependent claims 7 and 8 each and every limitation specified and required by independent claim 4 must be considered. Reconsideration of these claims is requested.

DESPARD is directed to a *Quick Attach Strap*. Applicants note that the specification of DESPARD states that an important feature of the invention "comprises forming at least one of the notches of a width greater than the diameter of the mounting screw head whereby this screw overlaps only the bottom or inner edge of the notch, permitting lateral adjustment for device alignment in the box" (see column 1, lines 15 – 25). FIG. 1 of DESPARD shows notch 40 disposed at the top of the mounting strap 32, while FIG. 3 shows a notch 140 disposed at the top of the mounting strap 32. The "notches 40 are substantially rectangular with the sidewalls spaced apart from 1/32 to 1/16 of an inch wider than the heads of the screws whereby they will pass over these heads". In short, the notches 40 are wider than the head of any of the mounting screws contemplated for use with the DESPARD device. DESPARD discusses notch 140 (see column 4, lines 5 – 15) and states "the width of the notch 140 is considerably less than the diameter of the screw head but only about 1/32 of an inch greater in width than the diameter of the screw shank" and "the narrow notch his first mounted under the least withdrawn screw and the wide notch is passed over the head of the other one has in the first construction". In short, the mounting strap 32 incorporates a narrow notch 142 that is narrower than the width of the head of a contemplated mounting screw, and a wide notch 40 that is wider than the width of the head of a contemplated mounting screw. FIG. 3 illustrates this and shows that the mounting strap 32 includes a narrow notch 140 at the top of the mounting strap 32 and a wide notch 40 that is at the bottom of the mounting strap 32. In short, one notch is purposefully large enough to let a mounting screw head thru, while the other notch is purposefully smaller to preclude the head of a mounting screw to pass. The mounting screws contemplated by DESPARD do not incorporate a support rim (as is specified and required by claim 2 as amended herein) and could in no way be used to level out the electrical device where there is no supportive wall surface adjacent to the outlet box in which the electrical device is mounted. This is much different than the present claimed invention.

With respect to claim 2, applicants note that DESPARD fails to disclose an electrical device that incorporates, among other things, a first slotted mounting hole for receiving a first mounting screw comprising a first support rim; a second slotted mounting hole for receiving a second mounting screw comprising a second support rim; a first channel having a width that is less than the maximum width of the first support rim; or a second channel having a width that is less than the maximum width of the second support rim as is specified and required by thrice amended claim 2. Each of these elements is specified and required by independent claim 2 as amended herein.

With respect to claim 4, applicants note that DESPARD fails to disclose an electrical device that incorporates, among other things, *a first mounting hole for receiving a first mounting screw that includes a first support rim; a second mounting hole for receiving a second mounting screw comprising a second support rim; a first ear that extends from a first end of said yoke; a second ear that extends from a second end of said yoke; a first channel extending from an outer edge of said yoke and leading into said first mounting hole and through which said first mounting screw may be passed into said first mounting hole; a second channel extending from an outer edge of said yoke and leading into said second mounting hole and through which said second mounting screw may be passed into said second mounting hole; a width of said first channel is less than the maximum width of said first support rim; a width of said second channel is less than the maximum width of said second support rim; and the yoke is configured so that the surface of the yoke surrounding the perimeter of said first mounting hole lies in substantially the same plane.* Each of these elements is specified and required by claim 4 as amended herein.

It should be noted that DESPARD does not contemplate and is not otherwise concerned with- nor directed to -- providing an electrical device that may be leveled flush with an adjacent wall surface without actually having to have a wall surface available to support/contact the yoke of the electrical device. Further, DESPARD does not contemplate and is not otherwise concerned with - nor is it directed to -- providing an electrical device that may be leveled flush with an adjacent wall surface via

interconnection with a mounting screw that incorporates a support rim. Further, DESPARD is not concerned with nor directed to providing an electrical device that may be easily/quickly installed/removed from an outlet box without having to completely unscrew/remove one or more related mounting screws and without having the mounting screws falling away from the yoke during the removal/installation process.

In view of the above and the amendments herein, both claim 2 and claim 4 are believed to be in condition for allowance. Consideration and allowance of claim 2 and claim 4 as amended herein is respectfully requested.

**RE: CLAIMS 5, 7, 8 and 11** – Claims 5 and 11 depend from claim 2, while claims 7 and 8 depend from claim 4. In order for a dependent claim to be anticipated by the prior art, the prior art must show each and every limitation specified by the claim. In the case of a dependent claim, this means each and every limitation of the independent claim and any intervening claims, must also be found in the prior art.

Applicant would repeat here the same arguments and remarks set out above concerning claim 2 and claim 4, respectively. In view of this, it is believed that pending claims 5, 7, 8 and 11 are not anticipated by the prior art and otherwise meet all requirements for patentability. Reconsideration and allowance of claims 4, 5, 6, 7, 8 and 11 is requested.

**2. Response to Rejection of Claims 15 and 16 under 35 U.S.C. §102**

Claims 15 and 16 stand rejected under 35 U.S.C. §102 (b) as being anticipated by EDER (USP 5389011). Applicants respectfully disagree with the assertion of the office herein, and submit that claims 15 and 16 as currently pending are not anticipated by EDER.

**RE: CLAIM 15** – In the interests of advancing the present case, claim 15 has been amended herein, to further clarify features of embodiments of the invention. More particularly, claim 15 has been amended to specify and require, *among other things a*

first score line delineating a portion of the yoke that can be removed to form a first channel that extends from an outer edge of said yoke and opens into said first mounting hole; second score line delineating a portion of the yoke that can be removed to form a second channel that extends from an outer edge of said yoke and opens into said second mounting hole; and wherein, when the first portion is removed, the first channel is configured to receive a mounting screw and allow it to be passed into the first slotted mounting hole; and wherein when the second portion is removed, the second channel is configured to receive a mounting screw and allow it to be passed into the second mounting hole.

The office action herein has asserted, among other things, that EDER discloses a a "slotted mounting hole 21" and a score line 22 that delineates *"a portion of the yoke that can be removed to form a channel that opens into said slotted mounting hole (wherein the portion of the slot remaining on the extension 16, 18 is capable of being used as the mounting hole)"*.

Applicants would point out that the disclosure of EDER (see column 3, lines 3 -7) describes element 22 as "a scored bending line 22 about which a respective ear can be bent to break the ear off the strap for use a spacer". Once an ear, such as ear 20, is broken off along the line 22, the aperture 21 is opened and the ear 20, is completely detached from the device 10. Any mounting screw that might be passed through the resulting opening may be passed into the aperture 21 of ear 20, which is now separate and distinct from the electrical device 10 and the mounting yoke thereof. In this separate and distinct from the electrical device form, it will be very difficult, if not impossible to mount the electrical device to an outlet box with the mounting screw that would then be within the aperture 21 of removed ear 20. Clearly breaking off a respective ear (such as ear 20) will not result in the formation of a channel that opens into a slotted mounting hole and any mounting screw placed into the aperture 21 of detached ear 20 will not satisfy all of the requirements specified by claim 15 as originally submitted and as amended herein.

**RE: CLAIM 16** - Claim 16 depends from claim 15. In order for a dependent claim to be anticipated by the prior art, the prior art must show each and every limitation specified by the claim. In the case of a dependent claim, this means each and every limitation of the independent claims and any intervening claims, must also be found in the prior art. Applicant would repeat here the same arguments and remarks set out above concerning claim 15. In view of this, it is believed that pending claim 16 is not anticipated by the prior art and otherwise meets all requirements for patentability. Reconsideration and allowance of claims 16 in view of all requirements of amended claim 15 and the arguments set out above with respect to claim 15 is requested.

**3. Rejection of claims 3 and 19 under 35 U.S.C. §103**

Claims 3 and 19 have been rejected as being unpatentable over DESPARD in view of GLADER (USP 3689864). The office action acknowledges that DESPARD does not use a screw with a support rim, and states that GLADER discloses a mounting screw comprising an elongated post, a head 20 positioned at one end of the elongated post and a support rim 24 positioned along the elongated post at a predetermined distance from said head and in a plane that is substantially parallel to the plane in which said head lies. The office action asserts that it would have been obvious to use the screw as taught in GLADER to mount the DESPARD device, and that the suggestion or motivation for doing so would have been to maintain good electrical contact with the yoke and to securely position the yoke a desired distance from the finished wall as taught in GLADER.

Applicants disagree with the assertions of the office action and respectfully submit that the office Action herein does not establish a case of prima facie obviousness with regard to claims 3 and 19. Claim 3 depends from claim 2, while claim 19 is independent. In the case of claim 3 each and every element specified and required by independent claim 2 must be considered. Applicants would point out that the cited art fails to disclose or otherwise suggest an electrical device that includes among other things *a first slotted mounting hole for receiving a first mounting screw comprising a first support rim; a second slotted mounting hole for receiving a second*

*mounting screw comprising a second support rim; a first channel having a width that is less than the maximum width of the first support rim; or a second channel having a width that is less than the maximum width of the second support rim, as is specified and required by independent claim 2. Also, Applicants assert that the cited art fails to disclose or otherwise suggest an electrical device that includes among other things a mounting yoke that incorporates a first mounting hole for receiving a first mounting screw comprising a first support rim; a second mounting hole for receiving a second mounting screw comprising a second support rim; first ear that extends from a first end of said yoke; second ear that extends from a second end of said yoke; channel configured to open into said slotted mounting hole to allow a mounting screw to be passed into said slotted mounting hole; a first channel extending from an outer edge of said yoke and leading into said first mounting hole and through which said first mounting screw may be passed into said first mounting hole; a second channel extending from an outer edge of said yoke and leading into said second mounting hole and through which said second mounting screw may be passed into said second mounting hole; a width of said first channel is less than the maximum width of said first support rim; a width of said second channel is less than the maximum width of said second support rim; and said yoke is configured so that the surface of the yoke surrounding the perimeter of said first mounting hole lies in substantially the same plane as specified and required by independent claim 19.*

The mere fact that the prior art can be modified so as to result in the combination defined by the claims at issue does not make the modification obvious unless the prior art suggests the desirability of such modification. Further, each and every limitation of the claim at issue must be considered. In the case of dependent claims, such as claim 3 this requires that each and every limitation of the independent claim (claim 2) and any intervening claims, from which they depend also be considered.

It is completely improper to use the present claimed invention as a guide through the maze of prior art references in order to combine references in just the right way so as to achieve the results of the claims at issue. The references cited by the Office



Action herein do not suggest or otherwise teach the desirability of the present claimed invention. The present invention has been used as a road map for attempting to modify DESPARD and GLADER to achieve a device that arguably would include attributes of the present claimed invention.

Applicants would point out that neither DESPARD or GLADER contemplate or are otherwise concerned with or directed to providing an electrical device that may be leveled flush with an adjacent wall surface without the aid of a double headed mounting screw or, in the case where no adjacent wall surface is available to support the electrical device flush, easily supported by a mounting screw with a support rim that can be easily introduced into the mounting hole via a channel included in the yoke of the electrical device that has a width that is less than the width of the support rim. The proposed combination of DESPARD and GLADER would result in a device in which a bolt such a B, could not be placed in the large notch 149 without having to hold the bolt securely in place.

The risk of the bolt falling away from the electrical device before the bolt is securely screwed into the respective outlet box is very high and will result in exactly the non-easy and non-quick installation/removal problems of the prior art that the present invention is directed to overcoming. DESPARD and GLADER simply do not contemplate or recognize the problems to which the present invention is directed, nor do they suggest any modification or combination to achieve the benefits of the present claimed invention. Someone attempting to address the problem of leveling an electrical device having plaster ears and installed in a mounting box when there is no adjacent wall surface capable of supporting the electrical device/plaster ears, simply would not seek or find a solution (or suggestion of a solution) in DESPARD and/or GLADER. Further, someone attempting to address the problem of replacing/installing an electrical device capable of being level without support of an adjacent wall surface and without the inconvenience (and hassle) of having to completely remove/unscrew mounting screws and without having the mounting screws fall away from the electrical device (thus requiring efforts to retrieve dropped mounting screws), simply would not seek or

find a solution (or suggestion of a solution) in DESPARD and/or GLADER. In view of the above, it is respectfully submitted that the proposed combination of DESPARD and GLADER is not only not obvious, but will result in the exact problematic situation that the present invention is directed in part to eliminating.

Claim 19 has now been amended herein to further clarify the features of the claimed invention. Among other things, claim 19 has now been amended to specify and require a mounting yoke that incorporates a first mounting hole for receiving a first mounting screw comprising a first support rim; a second mounting hole for receiving a second mounting screw comprising a second support rim; first ear that extends from a first end of said yoke; second ear that extends from a second end of said yoke; channel configured to open into said slotted mounting hole to allow a mounting screw to be passed into said slotted mounting hole; a first channel extending from an outer edge of said yoke and leading into said first mounting hole and through which said first mounting screw may be passed into said first mounting hole; a second channel extending from an outer edge of said yoke and leading into said second mounting hole and through which said second mounting screw may be passed into said second mounting hole; a width of said first channel is less than the maximum width of said first support rim; a width of said second channel is less than the maximum width of said second support rim; and said yoke is configured so that the surface of the yoke surrounding the perimeter of said first mounting hole lies in substantially the same plane. Reconsideration and allowance of 19 and 20 is requested.

#### **4. Rejection of claim 20 under 35 U.S.C. §103**

Claim 20 has been rejected as being unpatentable over DESPARD as in claim 19 in view of SLATER (USP 3403215). The mere fact that the prior art can be modified so as to result in a combination defined by the claims at issue does not make the modification obvious unless the prior art suggests the desirability of such modification. Further, each and every limitation of the claim at issue must be considered. In the case of dependent claim 20 this requires that each and every limitation of the independent

claim 19 and any intervening claims also be considered. Reconsideration and allowance of claim 20 is requested.

**5. Rejection of claims 18 under 35 U.S.C. §103**

Claim 18 has been rejected as being unpatentable over EDER as in claim 15 in view of SLATER. The mere fact that the prior art can be modified so as to result in a combination defined by the claims at issue does not make the modification obvious unless the prior art suggests the desirability of such modification. Further, each and every limitation of the claim at issue must be considered. In the case of dependent claim 18 this requires that each and every limitation of the independent claim 15 (as amended herein and discussed above) and any intervening claims must also be considered. Reconsideration and allowance of claim 18 is requested.

**6. Rejection of claims 18 under 35 U.S.C. §103**

**Claims 2, 6, 9, 10 and 12** have been rejected as being unpatentable over GLADER in view of SLATER. Claims 6, 9, 10 and 12 depend from independent claim 2. In order for a claim to be anticipated by the prior art, each and every limitation specified by the claim at issue must be found in the prior art. Applicants submit that the cited art fails to disclose each and every limitation specified by these claims as originally submitted, and as amended herein. Without repeating the same here, reference is made to the arguments and comments above concerning the rejection of claim 2 under 35 U.S.C. §102, all of which are relevant here to the rejection of claim 2. In the case of dependent claims **6, 9, 10 and 12** this requires that each and every limitation of the independent claim (claim 2) and any intervening claims, from which they depend also be considered.

It is completely improper to use the present claimed invention as a guide through the maze of prior art references in order to combine references in just the right way so as to achieve the results of the claims at issue. The references cited by the Office Action herein do not suggest or otherwise teach the desirability of the present claimed invention. The present invention has been used as a road map for attempting to modify

GLADER and SLATER to achieve a device that arguably would include attributes of the present claimed invention.

Applicants would point out that neither GLADER or SLATER contemplate or are otherwise concerned with or directed to providing an electrical device that may be leveled flush with an adjacent wall surface without the aid of a double headed mounting screw or, in the case where no adjacent wall surface is available to support the electrical device flush, easily supported by a mounting screw with a support rim that can be easily introduced into the mounting hole via a channel included in the yoke of the electrical device that has a width that is less than the width of the support rim. The proposed combination of GLADER or SLATER would result in a device in which a bolt with a collar could not even be placed thru the mounting hole. In short, the proposed combination would result in a device that simply does not work.

#### **7. Amended Claims**

Independent claim 2 has been amended to specify, among other things, claim 2 has been amended to specify and require, among other things a first slotted mounting hole for receiving a first mounting screw comprising a first support rim; a second slotted mounting hole for receiving a second mounting screw comprising a second support rim; a first channel having a width that is less than the maximum width of the first support rim; or a second channel having a width that is less than the maximum width of the second support rim. This claim as well as all claims depending from it, are believed to meet all requirements for allowance.

Dependent claim 3 has been amended to specify, among other things, first mounting screw further comprises an elongated post, a head positioned at one end of the elongated post and said first support rim is positioned along the elongated post at a predetermined distance from said head and in a plane that is substantially parallel to the plane in which said head lies; and wherein said second mounting screw comprises an elongated post, a head positioned at one end of the elongated post and said second

support rim positioned along the elongated post at a predetermined distance from said head and in a plane that is substantially parallel to the plane in which said head lies.

Independent claim 4 has been amended to specify, among other things, a first mounting hole for receiving a first mounting screw comprising a first support rim; a second mounting hole for receiving a second mounting screw comprising a second support rim; first ear that extends from a first end of said yoke; second ear that extends from a second end of said yoke; a first channel extending from an outer edge of said yoke and leading into said first ~~slotted~~ mounting hole and through which said first mounting screw may be passed into said first mounting hole; a second channel extending from an outer edge of said yoke and leading into said second mounting hole and through which said second mounting screw may be passed into said second mounting hole; a width of said first channel is less than the maximum width of said first support rim; a width of said second channel is less than the maximum width of said second support rim; and the yoke is configured so that the surface of the yoke surrounding the perimeter of said first mounting hole lies in substantially the same plane

Dependent claim 5 has been amended to specify and require, among other things, a first channel positioned so as to open into said first slotted mounting hole; and wherein said second channel is positioned so as to open into said second slotted mounting hole.

Dependent claim 6 has been amended to specify and require, among other things, a first channel that incorporates a substantially enclosed opening; and wherein said second channel comprises a substantially enclosed opening.

Dependent claim 7 has been amended to specify and require, among other things, a first channel comprises that incorporates a two walls that are substantially parallel to each other; and wherein said second channel comprises two walls that are substantially parallel to each other.

Dependent claim 8 has been amended to specify and require, among other things, a first channel that incorporates two walls that converge inward from an outer edge of said mounting yoke into said first slotted mounting hole; and wherein said second channel comprises two walls that converge inward from an outer edge of said mounting yoke into said second slotted mounting hole.

Dependent claim 9 has been amended to specify and require, among other things, a first channel and a second channel that are generally circular in shape.

Dependent claim 10 has been amended to specify and require, among other things, a first channel is configured so as to be large enough to accommodate the head of said first mounting screw; and wherein said second channel is configured so as to be large enough to accommodate the head of said second mounting screw.


Claim 15 has been amended to specify, among other things, a mounting yoke for mounting said electrical device into an outlet box; said mounting yoke comprises: first ear that extends from a first end of said yoke; second ear that extends from a second end of said yoke; first ~~slotted~~ mounting hole for receiving a first mounting screw; second mounting hole for receiving a second mounting screw; first score line delineating a portion of the yoke that can be removed to form a first channel that extends from an outer edge of said yoke and opens into said first ~~slotted~~ mounting hole; second score line delineating a portion of the yoke that can be removed to form a second channel that extends from an outer edge of said yoke and opens into said second mounting hole; when said first portion is removed, said first channel is configured to receive a mounting screw and allow it to be passed into said first slotted mounting hole; and when said second portion is removed, said second channel is configured to receive a mounting screw and allow it to be passed into said second mounting hole. This claim as well dependent claims 16 and 18 are believed to meet all requirements for allowance.

Independent claim 19 has now been amended herein to further clarify the features of the claimed invention. Among other things, claim 19 has now been

amended to specify and require a mounting yoke that incorporates a first mounting hole for receiving a first mounting screw comprising a first support rim; a second mounting hole for receiving a second mounting screw comprising a second support rim; first ear that extends from a first end of said yoke; second ear that extends from a second end of said yoke; channel configured to open into said slotted mounting hole to allow a mounting screw to be passed into said slotted mounting hole; a first channel extending from an outer edge of said yoke and leading into said first mounting hole and through which said first mounting screw may be passed into said first mounting hole; a second channel extending from an outer edge of said yoke and leading into said second mounting hole and through which said second mounting screw may be passed into said second mounting hole; a width of said first channel is less than the maximum width of said first support rim; a width of said second channel is less than the maximum width of said second support rim; and said yoke is configured so that the surface of the yoke surrounding the perimeter of said first mounting hole lies in substantially the same plane. This claim as well as dependent claim 20 are believed to meet all requirements for allowance. Reconsideration and allowance of 19 and 20 is requested.

### CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 2 – 11, 15 16, 18, 19 and 20 are in condition for allowance. Favorable re-consideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (678) 352-0103.

<p align="center"><b>Certificate of Mailing</b></p> <p>I hereby certify that this correspondence, and attachments, if any, is being deposited with the United States Postal Service by First Class Mail, postage prepaid, in an envelope addressed to "Mail Stop AMENDMENTS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on the date below.</p> <p>DATE: <b>December 10, 2005</b></p> <p></p> <hr/> <p>Robert P. Biddle (Reg# 35, 826) 6300 Powers Ferry Road Suite 600-183 Atlanta, GA 30339</p> <p>TEL: 678-352-0103 FAX: 404-795-0870</p>
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Respectfully submitted,

**BIDDLE & ASSOCIATES, P.C.**

By: 

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